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6 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON7 CAL COBURN BROWN, *et al.*,

8 Plaintiffs,

9 v.

10 ELDON VAIL, *et al.*,11 Defendants.  
12

NO. CV-09-5012-RHW

**ORDER OF REMAND**

13 Before the Court is Plaintiffs' Motion for Temporary Restraining Order (Ct.  
14 Rec. 9). A telephonic hearing on this motion was held on February 24, 2009, at  
15 2:00 p.m. Plaintiff Brown was represented by Gilbert Levy; Plaintiff Gentry was  
16 represented by Scott Engelhard; and Defendants were represented by John Samson  
17 and Sara Olson.

18 Prior to the hearing, the Court entered an Order to Show Cause (Ct. Rec.  
19 19) directing the parties to address the issue of the propriety of the removal of this  
20 case to the Eastern District of Washington rather than the Western District of  
21 Washington. The State Defendants acknowledged that the removal was mistakenly  
22 made to the Eastern District of Washington and was not authorized by the removal  
23 statute. The State contended that the Court could nonetheless proceed because the  
24 parties had consented to its jurisdiction by filing pleadings without raising an  
25 objection to venue or jurisdiction. In the alternative, the State contended that the  
26 Court should transfer the case to the Western District rather than remand.

27 The attorneys for the Plaintiffs contended that the Court should remand the  
28 case to the Superior Court of Thurston County for the reasons stated in the Court's

1 Order to Show Cause.

2 For the reasons stated on the record and set forth in the Court's Order to  
3 Show Cause (Ct. Rec. 19), this matter is hereby **remanded** to Thurston County  
4 Superior Court for all further proceedings.

5 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
6 Order, forward copies to counsel, and close the file.

7 **DATED** this 24th day of February, 2009.

8 *s/ Robert H. Whaley*

9 ROBERT H. WHALEY  
10 Chief United States District Judge

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